

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:18-cr-20800

HONORABLE STEPHEN J. MURPHY, III

v.

D-1 RAJENDRA BOTHRA,
D-2 ERIC BACKOS,
D-3 GANIU EDU,
D-4 DAVID LEWIS,
D-5 CHRISTOPER RUSSO,
D-6 RONALD KUFNER,

Defendants.

/

**ORDER GRANTING MOTION
TO FIND EXCLUDABLE DELAY [299]**

Defendants are charged with a large-scale scheme of fraudulent healthcare billing practices and the unlawful prescription of controlled substances. ECF 1, PgID 1–2. The indictment alleged the submission of nearly \$470 million in improper insurance claims and the dispensation of more than thirteen million doses of Schedule II drugs. *Id.* at 2. The trial date has been moved several times due to the COVID-19 pandemic and was most recently set to September 28, 2021. ECF 286. The United States and Defendants Backos, Edu, Lewis, Russo, and Kufner jointly moved the Court to adjourn the trial date to a date to be determined at an October 12, 2021 status conference. ECF 299. The United States and the above listed Defendants also moved to have the Court determine that the time between September 28, 2021 and the trial date constitutes excludable delay for purposes of the Speedy Trial Act.

Id. at 2200–01. The filing mentioned that Defendant Bothra did not join the motion. *Id.* at 2201. But Defendant Bothra never formally objected.

Due to the ongoing effects of the COVID-19 pandemic, the Court could not have a jury trial on September 28, 2021. *See* 21-AO-023; 20-AO-039. As a result, the Court adjourned the September 28, 2021 trial date in a text order on September 22, 2021 while the Court waited to see if Defendant Bothra would oppose the pending motion.

Given the limited ability to conduct jury trials in the Eastern District of Michigan because of the COVID-19 pandemic, the Court will grant the United States and Defendants' joint motion and find that the period between September 28, 2021 and the trial date, now set to January 25, 2022, constitutes excludable delay under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(i). *See* 21-AO-023; 20-AO-039. The Court finds that the ends of justice served by delaying the trial, namely the proper handling of the ongoing COVID-19 pandemic, "outweigh the best interest of the public and the [D]efendant[s] in a speedy trial." § 3161(h)(7)(A).

WHEREFORE, it is hereby **ORDERED** that the motion to find excludable delay [299] is **GRANTED** and that the time between September 28, 2021 and the new trial date, January 25, 2022, **CONSTITUTES** excludable delay under the Speedy Trial Act.

WHEREFORE, the following dates will apply:

Final pretrial conference/plea cut-off: January 6, 2022 at 11:00 a.m.

Jury Trial: January 25, 2022 at 9:00 a.m.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: October 18, 2021

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 18, 2021, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager